HONOURABLE SRI JUSTICE

B. SESHASAYANA REDDY

WRIT PETITION NO. 11539 OF 2005

Dated 31-10-2005

Between:

Matham Dakshina Chary, son of Yelamandaiah, aged 54 years, Mutha worker & Ex-Councilor of Ward No.1, resident of F.C.I. Workers & Yanadi Colony, Plot No.265, Ward No.1, Sattenapalli, Guntur District.

Petitioner.

And:

1) The Mandal Revenue Officer, Sattenapalli Mandal, Guntur District and others.

Respondents.

ORDER :

This writ petition has been filed by Matham Dakshina Chari with a prayer to issue a writ or direction more particularly one in the nature of Writ of Mandamus directing the respondents to protect the 'community site' located in Sy.No.225 of Satenapalli Municipality in F.C.F. Workers & Yanadi Colony.

2. The petitioner claims that he is Ex-Councilor of ward No.1, and he is the resident of F.C.I. Workers & Yanadi Colony. The grievance of the petitioner is that 1st respondent is contemplating to allot site which is an extent of Ac.0.31 cents of site which is meant for communal purposes as per the lay out. Therefore, he approached this Court by invoking Article under Section 226 of Constitution of India with the prayer stated supra.

3. The 4th respondent came on record as per the orders in W.P.M.P.No.15732 of 2005. The respondents 1,2 and 4 filed counter-affidavits. Mr. N.S.R.K. Murthy has

given his sworn affidavit. It is stated in the Counter affidavit that the Mandal Revenue Officer Sathenapalli inspected the lands in question and found that the communal site is being used for the selfish use by the petitioner along with the others for keeping hayricks, manure heaps. The local enquiries revealed the fact that there is no necessity of communal site for the inhabitants and it is justified to assign it to the needy eligible beneficiaries as house sites. I deem it appropriate to refer paragraphs 4 and 5 of the Counter-affidavit and it is thus:

> "After personal inspection of the acquired land in S.No.225/1C1, I came to know that an extent of Ac.0.30cents marked as "communal site" is being used for the selfish use by the petitioner along with others for keeping hayricks, manure heaps etc., for all the time from the year 1987. Local enquiries revealed the fact that there is no necessity of communal site for the inhabitants and it is justified to assign it to the needy eligible beneficiaries as house sites. Keeping need of the shelterless people in view, I assigned this extent to eligible needy SC beneficiaries. My action was ratified by the Land Acquisition Officer and Revenue Divisional Officer, Guntur since my action is in the interest of depressed Classes."

> "The Municipal Commissioner ought to have taken steps in the last 18 years to develop the communal site for communal purpose in true spirit. After a lapse of 18 years period, the Municipal Commissioner's action of deputing his subordinates to inspect the communal site is only under the influence of the petitioner who happens to be a councilor is to defray the assignment of this vacant site to needy house site beneficiaries."

4. It is further stated in the counter-affidavit that the pattas were already been granted to the beneficiaries on 30-11-2004. The 4th respondent is one of the allottees. It is also further stated in the counter-affidavit filed by him that the Revenue Authorities after elaborate enquiry, allotted Ac.0.2 ½ cents in Ranga Colony.

5. Heard the learned counsel for the petitioner and the learned Government Pleader for assignment appearing on behalf of the respondents.

6. The learned counsel for the petitioner submits that Ac.0.31 cents reserved for the communal purposes is required to be preserved and any allotment of the said land to their parties is in contravention of the directions by the Honourable Supreme Court as in contravention of the layout land.

7. The learned Government Pleader for Revenue submits that the petitioner and others have been misusing the community site and therefore, the same has

been allotted to the beneficiaries on 30-11-2004.

8. The relief sought for by the petitioner in the writ petition is to issue a writ or direction more particularly one in the nature of Writ of Mandamus directing the respondents to protect the 'community site' located in Sy.No.225 of Satenapalli Municipality in F.C.F. Workers & Yanadi Colony.

9. As on this day, the site in question has been allotted to various beneficiaries. Unless all the beneficiaries are parties, no effective adjudication can be made in the writ petition since the site has already been allotted to the beneficiaries. The petitioner is at liberty to question their assignment by taking out necessary proceedings.

10. Accordingly, the writ petition is dismissed. No costs.

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Justice B. SESHASAYANA REDDY

Date : 31-10-2005

Dvs

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